



OFFICE OF EXECUTIVE INSPECTOR GENERAL
for the Agencies of the Illinois Governor

James A. Wright, Executive Inspector General • www.inspectorgeneral.illinois.gov

ETHICS REFERENCE

for State of Illinois Employees and Contract Workers Subject to the
Jurisdiction of the Office of Executive Inspector General for the
Agencies of the Illinois Governor

Date of Issue: September 2008

(This is not a legal opinion and is nonbinding)

Introduction/General Principles

State employees are expected to work on behalf of the state in a manner that always complies with laws, rules, regulations and policies. By doing so and by always acting with honesty and integrity state employees allow established values to guide their actions and decisions. That is what it means to follow the principles of *ethics*.

Proper conduct by state employees is essential to maintaining the public's trust in state government. Therefore, in addition to acting with honesty and integrity, you must always use state provided resources in the most productive and efficient way possible and only in support of the work of state government. You must avoid placing your personal or financial interests in conflict with those of the state. Furthermore, it is your duty to report any violation of laws, rules, regulations and policies that you become aware of as a state worker.

Among the laws and rules that apply to you as a state employee is the State Officials and Employees Ethics Act (5 ILCS 430), which became law in December 2003. The Ethics Act applies to full-time, part-time, temporary and seasonal employees, as well as to appointees to state boards and commissions and state officials. It also applies to contract workers. The Ethics Act contains rules to guide the conduct of state employees. For example, state employees are restricted from accepting certain gifts from those considered to be a "prohibited source". There are also restrictions that generally prevent state employees from participating in specified political activities during their workday, unless they use vacation or personal leave time. In addition, the Ethics Act prohibits state employees from using state property or resources to conduct or support certain specific political activities. The text of the entire Ethics Act, is available at www.inspectorgeneral.illinois.gov

The information that follows is intended to provide a summary of selected elements of the Ethics Act and other laws and rules that relate to ethical conduct. If, as a state employee, you require additional information concerning these matters, you are strongly encouraged to contact your state agency's ethics officer, who serves to provide guidance in the interpretation and implementation of the Ethics Act.

Executive Ethics Commission

Established in 2004, the Executive Ethics Commission (EEC), in conjunction with the Executive Inspectors General and the Attorney General, is responsible for the oversight of compliance with, implementation of, and enforcement of the State Officials and Employees Ethics Act.

It exercises jurisdiction over all officers and employees of the state agencies under the six executive-branch constitutional officers of the state, as well as the State Public Universities.

For further information about the EEC, visit its Web site at <http://www.eec.illinois.gov>.

Ethics Training (from Ethics Act, Section 5-10)

All state employees under the jurisdiction of the Office of Executive Inspector General for the Agencies of the Illinois Governor, like most other state employees, must complete ethics training on an annual basis. This requirement applies to any person employed full-time, part-time, or pursuant to a contract, as well as to any appointee. *Each state agency will notify and provide instructions to its employees concerning when and how to participate in annual ethics training.*

All new state employees and appointees must complete ethics training within six months of their first day of employment or appointment.

Personnel Policies (from Ethics Act, Section 5-5)

State employees are required to follow the personnel policies of their state agency. These policies must include elements related to:

- Work time requirements.
- Documentation of time worked/time sheets.
- Documentation for reimbursement for travel on official state business.
- Compensation.
- Earning and accrual of state benefits for those state employees eligible for benefits.

State employees are expected to adhere to applicable personnel policies.

Time Sheets (from Ethics Act, Section 5-5)

Each state agency shall require all employees to periodically submit time sheets. An employee's time sheet must document, to the nearest quarter hour, the time spent each day on official state business. Contractual state workers may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. Time sheets may be maintained in paper or in electronic format. The time sheets must be maintained by the state agency's fiscal office for a period of at least two years.

State employees are expected to report their time accurately, honestly and in accordance with their state agency's personnel policies.

Conflicts of Interest

It is unethical for a state employee, when performing actions on behalf of the state, to place his or her interests or those of a friend, relative or business associate, above those of the state. This is what is meant by a conflict of interest. *Because of the importance of the integrity of state government, state employees must avoid even the appearance of a conflict of interest.*

Preexisting, potential or real conflicts of interest should be disclosed to the state by state employees during the hiring process. *For example, a prospective employee of a state agency with responsibility for regulating a certain industry should disclose current or prior relationships with a business that is subject to the agency's regulation. Specifically, for example, it would be unethical for a prospective state employee to not disclose a financial interest in a business subject to the state agency's oversight.*

Potential or real conflicts of interest that arise or become known during the course of an individual's state employment should be disclosed to the state agency's ethics officer at the earliest opportunity, in order to determine the most appropriate course of action. This may include, for example, the need for a state employee to recuse herself or himself from certain official activities that are related to the conflict.

It is unethical for state employees to use information made available to them through their official duties and which is not generally known to the public, to benefit themselves, their friends, their family, or business associates. *For example, it would be inappropriate for a state employee to provide confidential information concerning a competitive bidding process for a state contract to a company, owned by a personal friend, which plans to submit a contract bid.*

All state business decisions, regulatory findings and rulemaking, granting of licenses, etc., made by state agencies must be made in the best interests of the state and must be made in a manner that is consistent with applicable laws,

rules, regulations and policies. *The personal interests of state employees, or those of their family, friends or business associates must not be a consideration in such decisions.*

Prohibited Political Activities (from Ethics Act, Section 5-15)

A state employee cannot participate in any of the following activities while acting, or appearing to act, in his/her capacity as a state employee or while conducting state business. If a state employee elects to take part in any of these activities during normal work hours, then he or she must use vacation, personal or compensatory time off. A state employee may never engage in any of these activities using state property and resources (such as state office telephones, state cell phones, photocopiers, or computers):

- Prepare for, organize, or participate in any political meeting, political rally, political demonstration, or other political event. *For example, a state employee cannot send an email to fellow workers during work hours and/or using a state email account, encouraging them to attend a rally for a candidate for public office.*
- Solicit contributions, including but not limited to purchasing, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event. *For example, it is unlawful for a state employee to ask coworkers, during the workday, for donations in support of someone running for political office.*
- Solicit, plan the solicitation of, or prepare any document or report regarding any thing of value intended as a campaign contribution.
- Plan, conduct, or participate in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes, or for or against any referendum question.
- Survey or gather information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization, or for or against any referendum question. *For example, it is unlawful for a state employee, during his or her workday, to call potential voters on behalf of a candidate to find out whom they might vote for in an upcoming election.*
- Assist at the polls on Election Day on behalf of any political organization, political candidate, or for or against any referendum question.
- Solicit votes on behalf of a candidate, political organization, or for or against any referendum question, or help in an effort to get voters to the polls or participate in a vote recount on behalf of a candidate or political organization.
- Initiate, prepare, circulate, review or file a petition on behalf of a candidate for elective office or for or against any referendum question.
- Make a contribution on behalf of any candidate for elective office. *For example, it is unlawful for a state employee to donate money, during work hours, to a coworker who is running for elective office.*
- Prepare or review responses to candidates' questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.
- Distribute, prepare for distribution, or mail campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
- Campaign for an elective office or for or against any referendum question.
- Manage or work on a campaign for elective office or for or against any referendum question.

- Serve as a delegate, alternate, or proxy to a political party convention.

Political Contributions on State Property (from Ethics Act, Section 5-35)

Political campaign contributions cannot be intentionally solicited, accepted, offered or made on state property by public officials, by state employees, by candidates for elective office, by persons required to be registered under the Lobbyist Registration Act, or by any officers, employees, or agents of any political organization. These provisions do not apply to the residences of state officers and employees, except that no fundraising events shall be held at residences owned by the state or paid, in whole or in part, with state funds.

State property includes, for example, buildings or portions thereof that are owned or exclusively leased by the state. Therefore, it is unlawful for a state employee to give or receive money for a candidate for public office while in state owned or leased office space or on state property.

Ban on Gifts from Prohibited Sources (from Ethics Act, Section 10-10, 10-15 and 10-30)

In many instances, it is unlawful for state employees to accept gifts that are offered to them in their capacity as state employees or in the conduct of state business. Gifts may include, but are not limited to such things as free tickets to sporting events, cash, special discounted merchandise or services, food, drink and travel expenses.

A state employee cannot intentionally solicit or accept a gift from certain individuals or entities that are defined by law as a “prohibited source.” It is also unlawful for an employee’s spouse or immediate family member living with him/her to accept a gift from a prohibited source. The following are prohibited sources and therefore, a state employee cannot generally accept a gift from:

- A person or entity (*a business, for example*) seeking official action from the state employee or the employee’s state agency.
- A person or entity that does business or seeks to do business with the state employee or the employee’s state agency.
- A person or entity that conducts activities that are regulated by the state employee or the employee’s state agency.
- A person or entity that has interests that may be substantially affected by the performance or non-performance of the state employee.
- A person or entity that is a registered lobbyist.

There are 12 specific exceptions to this ban on gifts from prohibited sources, including:

- Opportunities, benefits and services available to the general public on the same conditions.
- Anything for which the employee or appointee pays market value.
- A lawful contribution under the Election Code or the Ethics Act or activities associated with a fundraising event in support of a political organization or candidate.
- Educational materials and missions (see note below *).
- Travel expenses for a meeting to discuss state business (see note below **).
- A gift from a relative.
- Anything provided on the basis of personal friendship, unless the employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the employee and not because of the personal friendship.
- Food or drink that does not exceed \$75 per calendar day.

- Food, drink, lodging and transportation related to outside business or employment activities, if the benefits are customarily provided to others in similar circumstances and are not offered because of the recipient's official position.
- Intra-governmental or inter-governmental gifts (e.g. gifts between agency employees or between government employees).
- Bequests, inheritances, and other transfers at death.
- Any item or items from any one prohibited source during any calendar year that has a cumulative total value of less than \$100.

*Illinois Executive Ethics Commission Rule 1620.700 states that educational materials and missions are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; and are approved by the employee's ethics officer in advance of the mission or receipt of the materials. If advance approval is not practicable, the missions and materials shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance

**Illinois Executive Ethics Commission Rule 1620.700 further states that travel expenses of a meeting to discuss state business are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; are for travel in a style and manner in character with the conduct of state business; and are approved by the employee's ethics officer in advance of the travel, if practicable. If advance approval is not practicable, the travel shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance

If a state employee receives an improper gift from a prohibited source, she or he can correct the situation and not be in violation of the ban if she or he promptly does any of the following:

- Returns the gift to the giver.
- Gives the gift to a not-for-profit organization, a 501(c)(3) organization.
- Gives an amount of equal value to a not-for-profit organization, 501(c)(3) organization.

Any gift that is intended to improperly influence an employee's official conduct must not be accepted. Questions that a state employee may have related to gifts received in his or her capacity as a state employee or while conducting state business, should be referred to his or her state agency's ethics officer.

Prohibited Offer or Promise (from Ethics Act, Section 5-30)

A state employee cannot promise anything of value related to state government, including but not limited to positions in state government, promotions, or salary increases, in consideration for a contribution to a political committee, political party or other entity that has as one of its purposes the financial support of a candidate for elective office.

For example, it is unlawful for a state employee to offer an action by the state agency, or to offer someone a state job or to offer an appointment to a state board, or to offer the award of a contract, in exchange for a political campaign donation. It is also unlawful, for example, for a state employee, to offer a salary increase or promotion to another state employee in exchange for such a donation.

Revolving Door Restrictions (from Ethics Act, Section 5-45)

Contract Decision-makers

If within one year before leaving state service, a state employee participated personally and substantially in the decision to award state contracts with a cumulative value of over \$25,000 to a person, entity, its parent or subsidiary,

that state employee cannot knowingly accept employment or receive compensation or fees for services from that person, entity, or parent or subsidiary for one year after leaving state service.

Regulatory or Licensing Decisions

If, within one year before leaving state service, a state employee made a regulatory or licensing decision that directly applied to a person, entity, its parent or subsidiary, that state employee cannot knowingly accept employment or receive compensation or fees for services from that person, entity, or parent or subsidiary for one year after leaving state service.

Application for Waiver of Revolving Door Restrictions

The Executive Ethics Commission (“EEC”) may waive the revolving door restriction upon written request showing that the prospective employment or relationship did not affect the employee’s prior regulatory or licensing decisions. EEC Rule 1620.610 provides instructions concerning the waiver application process.

Whistleblower Protection (from Ethics Act, Section 15-10)

An officer, state employee, or state agency cannot lawfully take any retaliatory action against (such as reprimanding, firing, demoting, denying a promotion or suspending) a state employee for doing any of the following:

- Disclosing or threatening to disclose to a supervisor or to a public body an activity, policy or practice of any officer, member, state agency or other state employee that the state employee reasonably believes is in violation of a law, rule or regulation.
- Providing information or testifying about any violation of a law, rule or regulation by any officer, member, state employee, or state agency.
- Assisting or participating in a proceeding to enforce the State Officials and Employees Ethics Act.

If a state employee retaliates against another state employee for reporting a violation of law or assisting in an investigation then the individual taking the retaliatory action would be subject to disciplinary action up to and including discharge by their state agency, as well as potential administrative action by the Illinois Executive Ethics Commission for violating the Ethics Act. In addition, the employee subjected to the retaliatory action could file a lawsuit seeking compensation and other remedies as provided by law.

Appointments to Boards, Commissions, Authorities or Task Forces (from Ethics Act, Section 5-55)

Appointees to state boards, commissions, authorities and task forces have specific additional laws and rules that apply to them.

Registered Lobbyists (from Lobbyist Registration Act, 25 ILCS 170/3.1)

A lobbyist is any person who communicates with an official of the executive or legislative branch of state government for the purpose of influencing executive, legislative or administrative action. Registered lobbyists are those individuals who meet certain criteria under the Lobbyist Registration Act and are therefore required to register with the Illinois Secretary of State.

A person required to register as a lobbyist cannot serve on a state board, commission, authority or task force authorized or created by state law or by executive order of the governor unless the individual falls under one of the following exceptions:

- The registered lobbyist is serving in an elective public office, whether elected or appointed to fill a vacancy.
- The registered lobbyist is serving on an advisory body that makes nonbinding recommendations to an agency of state government, but does not make binding recommendations or determinations or take any other substantive action.

Any registered lobbyist who serves on a board, commission, authority or task force under one of these exceptions must not take part in any decision that may affect one of his or her clients.

Spouses and immediate family members who are living with a person required to register as a lobbyist also cannot be appointed to a board, commission, authority or task force unless they fall under one of the exceptions above.

A person, his or her spouse, or any immediate family member living with that person, cannot serve on a board, commission, authority or task force if he or she meets any of the following criteria:

- The person has more than a 7 ½ percent interest in a state contract;
- The person, together with his or her spouse and immediate family members living with them, has more than a 15 percent interest in a state contract.

This ban does not apply if one of the following exceptions occurs:

- The contract in question is an employment contract.
- The person, the spouse, or the immediate family member is serving in an elective public office.
- The person, the spouse, or the immediate family member is serving on an advisory body that makes non-binding recommendations.

Any person who serves on a board, commission, authority or task force under one of these exceptions must not take part in any decision that may affect the contract in question.

Any individual appointed to a board, commission, authority or task force must disclose all contracts the individual has with the state.

An appointee to a board, commission, authority or task force cannot have or acquire a contract or a direct financial interest in a contract with the state that is related to the board, commission, authority or task force on which they sit.

The Office of Executive Inspector General for the Agencies of the Illinois Governor (“OEIG”) acts as an independent state agency whose function is to investigate fraud and abuse in state government. Specifically, the OEIG receives and investigates complaints of violations of law, rule or regulation or abuse of authority or other forms of misconduct by state employees or those doing business with the state.

Although, by law, the OEIG cannot accept anonymous complaints, the identity of a complainant shall be kept confidential unless disclosure is otherwise required by law, or unless the individual complainant consents to disclosure.

All state employees have an obligation to report violations of laws, rules, regulations or policies that they become aware of in the course of their work for the state. By law, every state officer or employee in a state agency must promptly report to the Executive Inspector General any information concerning waste, fraud, conflicts of interest or abuse by another state officer, employee or vendor relating to his or her employment. The knowing failure of any officer or employee to so report shall be cause for discipline, up to and including discharge. The knowing provision of false information to the Executive Inspector General by any officer or employee shall be cause for discipline, up to and including discharge. These requirements are contained in Administrative Order #6, issued December 11, 2003.

Report work-related non-emergency violations of law, rule or regulation, to the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG) at its toll-free hotline: **866-814-1113** (or 888-261-2734 TTY). The OEIG's Web site is: www.inspectorgeneral.illinois.gov

In the event of an emergency situation requiring an immediate police response, one should contact the Illinois State Police or the county, municipal or campus police agency that can provide the fastest response. Examples of emergency situations include those that involve the illegal use or possession of a weapon, bodily injury or threat of bodily injury, or criminal sexual assault.

Duty to Cooperate (from Ethics Act, Section 20-70, Administrative Order #6-2003 and EEC Rule Section 1620.300(c)(8))

State employees who become involved in an investigation conducted by the Office of Executive Inspector General have a duty to cooperate. This means, among other things, that employees must participate in interviews as requested, tell the truth, not withhold information and respect the confidentiality of any investigation.

By law, every state agency, officer and employee shall cooperate with and provide assistance to the Executive Inspector General and her or his staff in the performance of any investigation. In particular, each state agency shall, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, make its premises, equipment, personnel, books, records, and papers readily available to the Executive Inspector General. The Executive Inspector General or his/her staff may enter upon the premises of any state agency at any time, without prior announcement, if necessary to the successful completion of an investigation. In the course of an investigation, the Executive Inspector General may question any officer or employee serving in, and any other person transacting business with the state agency, and may, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, inspect and copy any books, records, or papers in the possession of the state agency, including those made confidential by law, taking care to preserve the confidentiality of information contained in responses to questions or books, records, or papers that is made confidential by law.

The Executive Inspector General may compel any employee in a state agency to truthfully answer questions concerning any matter related to the performance of his or her official duties. If so compelled, no statement or other evidence derived there from may be used against such employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any employee to answer questions if compelled to do so shall be cause for discipline, up to and including discharge.

As instructed by an OEIG investigator, an employee who participates in an investigative interview must not inappropriately disclose any matter discussed during the interview, or even the existence of the investigation, except for example, when necessary to consult with private legal counsel.

With respect to OEIG investigations, EEC Rule (Section 1620.300(c) (8)) states:

"No EIG shall infringe upon the right of employees or officers to seek advice from their agency ethics officer on the interpretation and implementation of the Act, or to seek advice from private legal counsel."

Law requires state employees to cooperate with investigations of the OEIG. Failure to do so may result in disciplinary action, up to and including termination of employment.

Penalties

Penalties for violations of ethics-related laws, rules and policies by state employees are dependent upon the specific circumstances. Penalties may include administrative action up to and including termination of employment. In addition, the Executive Ethics Commission may levy administrative fines -- and illegal acts, such as bribery or theft, may result in criminal prosecution.

Ethics Questions or Concerns

State employees who have questions or concerns about a work-related ethics issue should contact their state agency's ethics officer. Among their other duties, ethics officers, by law, serve to provide guidance to officers and employees in the interpretation and implementation of the State Officials and Employees Ethics Act, which the officer or employee may in good faith rely upon.

Ethical Obligations

The following are examples of actions or situations that must be avoided. Each represents unethical conduct:

1. An administrative assistant to a state agency's Director is instructed by his supervisor to run a personal errand for her during the workday.

It is wrong for a state employee to engage in personal business that is unrelated to state or state agency business during scheduled work times.

2. A state agency employee accepts a gift of travel expenses in exchange for a favorable decision concerning a regulatory matter for which the state agency is responsible.

It is unethical and a violation of the law to accept a favor (monetary or other) in exchange for an official action. Such conduct may result in criminal prosecution.

3. During a meeting, a state employee approves a proposal to grant a state contract to a company owned by one of his/her close personal friends.

It is wrong for any state employee to take any official action that could be seen as placing personal interests or those of a family member, friend or business associate above those of the state.

4. A state employee takes a 2-hour personal lunch break, however only reports a ½ hour break on his/her official time report.

It is unethical and unlawful to provide false information in a time report used as a basis for compensating a state employee.

5. A temporary state employee is directed by his/her supervisor to distribute political campaign literature to other state workers during the workday.

The State Officials and Employees Ethics Act prohibits this and certain other political activity from being done during a state employee's paid workday and/or using state facilities. The Ethics Act applies to full-time, part-time, temporary, seasonal, and contract workers.

6. A state employee uses his/her official position to influence an applicant for a state license to do business with an associate of the state employee -- as a condition for the state employee's approval of the applicant's license.

It is unethical and unlawful for state employees to exchange favors for an official action. Such conduct will result in discipline up to and including termination of employment and possible criminal prosecution.

7. The college-age son of a state employee receives a pair of tickets to a professional football game from an employee of a business that recently submitted an application requiring approval by his father's state agency.

Acceptance of such a gift has the potential to represent either a real or perceived unethical act and thus should be strictly avoided or corrected, preferably by returning the gift.

8. A state employee, who is responsible for performing analysis of information provided to a state agency as part of a rulemaking process, accepts travel and lodging expenses for an out-of-town golf outing from a corporation that is a party to the rulemaking.

Acceptance of such a gift has the potential to be perceived as unethical and may in fact represent a violation of state law and state agency policy.